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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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OPTV/MEYERTONS RORY D. RANKIN P.O. BOX 398 AUSTIN, TX 78767-0398			EXAMINER SALCE, JASON P	
			ART UNIT 2623	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/652,261	Applicant(s) HARRIS, FREDERICK B.	
	Examiner Jason P. Salce	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 8/13/2007 have been fully considered but they are not persuasive.

Applicant states the teachings of Dunn and Klosterman and further states on Page 12 of Applicant's arguments that the combination of Dunn and Klosterman does not provide the presently claimed invention.

The examiner notes that Applicant has made no arguments as to how the teachings (or lack of teachings thereof) of the Dunn and Klosterman reference fail to teach the claim limitations.

Applicant further argues that combining Dunn with a list of available trailers and transmitting trailers on a preview channel in a carousel does not result in the claimed invention. Applicant further notes that in such a combination, there is no connection between the request sent by the viewer to the headend (i.e. the request for a new group of trailers in Dunn) and the retrieval of pushed modules (i.e., selecting a trailers for preview from a list in Klosterman) as recited, rather, the combination merely results in the VOD system of Dunn with a list of available trailers for preview from a preview channel (the trailers being transmitted on the preview channel in a carousel). Applicant further argues that in such a system, the viewer could request conveyance of a new set of trailers which may then be conveyed in response to the request, therefore, a viewer may simply select for display a non-requested trailer from a predetermined list – or, a

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viewer may request conveyance of further trailers and select from the requested and returned trailers.

The examiner disagrees and notes that although Applicant has suggested what the combination of Dunn and Klosterman may teach, the Applicant has not argued how these proposed teachings fail to teach the claims limitations. As stated in the previous Office Action, Dunn teaches all of the claim limitations, but is silent as to the use of a broadcast carousel. The examiner further noted that because a carousel is not taught, Dunn also does not disclose that a plurality of modules are not broadcast responsive to a client request. However, Applicant has pointed out that Dunn does in fact teach a continuous loop of trailers, therefore Dunn does in fact teach that a plurality of modules are not broadcast responsive to a client request, because trailers are continually transmitted in a loop. Even further, Dunn discloses that when a STB tunes to a VOD channel a "default" set of trailers are broadcast in a continuous loop and that trailers can also be transmitted based on the use of the choices button. Therefore, the teachings of a default set of trailers being broadcast continuously clearly teaches that a plurality of modules are not broadcast responsive to a client request until Dunn actuates the choices option. Regardless, the rejection still stands because (as the Applicant has stated) Dunn fails to teach a broadcast carousel.

Applicant also argues that because Dunn teaches that the VOD application allows the user to rent the program immediately from the trailer being displayed on their

television set, without returning to a menu or other order screen, that Dunn teaches away from the list type approach of Klosterman.

The examiner disagrees and notes that Klosterman is used to teach the use of a broadcast carousel and that both Dunn and Klosterman teach that the modules have unique identification numbers (see Column 12, Lines 26-32 of Dunn and Column 10, Lines 20-28 of Klosterman). Therefore, since the claim limitations are met by the teachings (of Dunn and Klosterman) of previews transmitted and viewed from a broadcast carousel, Dunn's teachings of how a movie can be ordered from viewing a preview is irrelevant because the claim limitations are being interpreted and rejected in view of the preview teachings of Dunn and Klosterman.

Applicant further states that Dunn does not disclose the limitations of claim 3. The examiner disagrees and notes that the limitations of claim 3 are clearly taught by the corresponding steps in Figure 13 of Dunn and further note Column 2, Lines 23-36 of Dunn, also noted by the Applicant. The examiner notes that these passages clearly teach ordering a video based on the displayed information in the EPG.

Applicant also argues that even though Dunn teaches a default set of previews and user filtered sets of previews, Dunn fails to teach an equivalent qualifying module. The examiner disagrees and notes that the claim limitations recite a plurality of modules in and identifying a qualifying module. Clearly Dunn teaches these limitations by receiving a plurality of modules (in the form of default previews) and a qualifying

module(s) (in the form of previews requested by the viewer using the choices options) both taught at Column 12, Lines 5-57 of Dunn.

Applicant further argues that the cited portion of Dunn fails to teach the claims limitations of claims 8, 15, 19 and 23. Applicant further notes that the next/previous trailer is not equivalent to "a selected advertisement associated with the search request". The examiner notes that since Applicant has provided to reason as to why no such equivalent exists, the cited portion of Dunn stands.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 8, 10-11, 15-18 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (U.S. Patent No. 5,945,987) in view of Klosterman (U.S. Patent No. 6,453,471).

Referring to claim 1, Dunn discloses a method for conveying individualized content in a distributed computer system (see Column 2, Lines 23-36).

Dunn also discloses broadcasting a plurality of modules from a server to a plurality of client devices on a single channel (see Figure 1 for a headend connected to a plurality of client devices and Column 12, Lines 48-57 for transmitting a plurality of

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modules from a server to a client device and Column 6, Lines 51-56 for transmitting the trailers on a single VOD channel), the plurality of modules having a unique module number (see Figure 7 and Column 9, Lines 10-29 for each trailer having a moniker/unique module number), wherein said plurality of modules are not broadcast responsive to a client request (see Column 12, Lines 17-26 for receiving default modules that are not broadcast responsive to a client request).

Dunn also discloses sending search criteria from a client device of the plurality of client devices to the server, subsequent to said broadcasting (see Column 12, Lines 19-25).

Dunn also discloses receiving the search criteria at the server and identifying a qualifying module number, which corresponds to the search criteria (see Column 12, Lines 26-32).

Dunn also discloses sending the qualifying module number to the client device (see Column 12, Lines 32-36).

Dunn also discloses receiving the qualifying module number at the client device (see again Column 12, Lines 32-36).

Dunn also discloses retrieving a first module at a client device in response to matching the received qualifying module number to said first module (see Column 12, Lines 42-57).

Dunn is silent as to a broadcast carousel being used to cyclically transmit the modules on a single channel.

Klosterman discloses broadcasting a plurality of modules in a broadcast carousel from a server to a plurality of client devices on a single channel (see carousel 902 in Figure 10 and Column 10, Lines 43-46), as well as, retrieving a first module of said modules at the client device from the single channel, in response to a unique module number (see Column 10, Lines 20-28). The examiner notes that since the plurality of modules are transmitted in a single channel of a broadcast carousel, that the modules in turn are not broadcast responsive to a client request, because the modules are continually transmitted over the single channel.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the trailer distribution system, as taught by Dunn, to include the carousel trailer distribution system, as taught by Klosterman, for the purpose of requiring less bandwidth to transmit multiple trailers in a single broadcast stream/channel (see Column 10, Lines 45-46 of Klosterman).

Referring to claim 2, Dunn further discloses displaying information corresponding to the first module on a display associated with said client device (see Figure 9).

Referring to claim 3, Dunn further discloses a viewer generating a video request based upon said displayed information (see step 240 in Figure 13), said video being associated with said first module (see step 236 in Figure 13 and tables 110, 118, 116 and 120 in Figures 7-8).

Dunn also discloses sending said video request to said server (see step 242 in Figure 13).

Dunn also discloses sending a video corresponding to said video request from the server to the client device (see step 246 in Figure 13).

Referring to claim 8, Dunn further discloses sending a selected advertisement associated with the search request to the client device (see step 256 in Figure 14).

Referring to claims 10, 16, 18 and 20, see the rejection of claim 1.

Referring to claims 11, 17 and 22, see the rejection of claim 3.

Referring to claim 21, see the rejection of claim 2.

Referring to claims 15, 19 and 23, see the rejection of claim 8.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (U.S. Patent No. 5,945,987) in view of Klosterman (U.S. Patent No. 6,453,471)

Referring to claim 9, Dunn and Klosterman discloses all of the limitations in claim 1, but fails to teach that each of said programs comprise a plurality of modules (trailers).

The examiner takes Official Notice to the fact of providing multiple trailers for display to viewer, wherein the multiple trailers correspond to a single video.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the amount of trailers corresponding to a single program that are transmitted, for the purpose of allowing a viewer to select between

different trailers for a movie in order to entice the viewer to further purchase the movie for viewing.

Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (U.S. Patent No. 5,945,987) in view of Klosterman (U.S. Patent No. 6,453,471) in further view of Adams (U.S. Patent No. 6,378,130).

Referring to claim 4, Dunn and Klosterman disclose all of the limitations of claim 3, as well as Dunn further disclosing inserting the requested video in a designated channel location in a broadcast and using the designated channel location to retrieve the requested video from the broadcast at the client device (see Column 4, Line 42 through Column 5, Line 15).

Adams further discloses sending the designated channel location from the server to the client device (see Figure 7 and Column 9, Line 59 through Column 11, Line 20).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the VOD system, as taught by Dunn and Klosterman, to further transmit a message indicated the designated channel location of a requested video from a headend/server to a client device, as taught by Adams, for the purpose of providing an improved media server interconnect from the headend to the set-tops so as to provide more on-demand service versatility and capacity at reasonable cost (see Column 6, Lines 11-14 of Adams).

Referring to claim 12, see the rejection of claim 4.

Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (U.S. Patent No. 5,945,987) in view of Klosterman (U.S. Patent No. 6,453,471) in further view of Norsworthy et al. (U.S. Patent No. 6,144,402).

Referring to claim 5, Dunn and Klosterman disclose all of the limitations in claim 3, but fails to teach sending a broadcast time for the requested video to the client device, inserting the requested video in a broadcast at the broadcast time and retrieving the video from the broadcast at the client device at the broadcast time.

Norsworthy discloses sending a broadcast time for the requested video to the client device, inserting the requested video in a broadcast at the broadcast time and retrieving the video from the broadcast at the client device at the broadcast time (see Column 5, Lines 4-44).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the VOD/trailer system, as taught by Dunn and Klosterman, to further utilize the broadcast time transmission method, as taught by Norsworthy, for the purpose of providing an individual with the time sequence that the user would received the requested data (see Column 3, Lines 43-45 of Norsworthy).

Referring to claim 13, see the rejection of claim 5.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (U.S. Patent No. 5,945,987) in view of Klosterman (U.S. Patent No. 6,453,471) in further view of Clay et al. (U.S. Patent No. 7,032,028).

Referring to claim 6, Dunn and Klosterman disclose all of the limitations of claim 3, but fail to teach continuously sending said video from the server until an acknowledgement of receipt is received by the server from the client device.

Clay teaches continuously sending said video from the server until an acknowledgement of receipt is received by the server from the client device (see Column 4, Lines 54-58).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the VOD/trailer system, as taught by Dunn and Klosterman, to further utilize the download completion acknowledgement message, as taught by Clay, for the purpose of providing further gains in communications efficiency can be attained (see Column 1, Lines 59-61 of Clay).

Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (U.S. Patent No. 5,945,987) in view of Klosterman (U.S. Patent No. 6,453,471) in further view of Dunn et al. (U.S. Patent No. 5,861,906).

Referring to claim 7, Dunn and Klosterman disclose all of the limitations of claim 3, but fail to teach continuously sending said video from the server for a predetermined period of time.

Dunn ('906 Patent) teaches continuously sending said video from the server for a predetermined period of time/rental time period (see Column 11, Lines 37-53).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the VOD/trailer system, as taught by Dunn and Klosterman, to further utilize the continuously transmission of a video program during a rental time period, as taught by Dunn ('906 Patent), for the purpose of providing the tremendous benefit of flexibility (see Column 11, Lines 54-55 of Dunn ('906 Patent)) by allowing a user to view a rented video program at their leisure (see Column 11, Lines 58-59 of Dunn ('906 Patent)).

Referring to claim 14, see the rejection of claim 7.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce
Primary Examiner
Art Unit 2623

October 29, 2007

JASON SALCE
PRIMARY PATENT EXAMINER

